

CHAPTER VIII

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY

133. Unlawful assembly.- An assembly of five or more persons is designated an “unlawful assembly” , if the common object of the persons composing that assembly is –

First.- To overawe by criminal force, or show of criminal force, 1[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

Second.- To resist the execution of any law, or of any legal process; or

Third.- To commit any mischief or criminal trespass or other offence; or

Fourth.- By means of criminal force , or show of criminal force , to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment.

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7. Ins by Act 35 of 1934, sec 2 and Sch.
 8. The words” or that Act as modified “ omitted by the A.O. 1950.
 9. Now see the Navy Act,1957 (62 of 1957).
 10. Subs by Act 14 of 1932, sec.130 and Sch . for “or the Air Force Act”
 11. Subs by Act 3 of 1951, sec.3 and Sch . for “ the Indian Air Force Act, 1932”.

Subs. by The A.O. 1950 for “Center or any Provincial Government or legislature” of a right of way , or of the use of water or other incorporeal right of which he is in possession or enjoyment , or to enforce any right or supposed right; or

Fifth. - By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.- An assembly which was not unlawful when it assembled. May subsequently become an unlawful assembly.

COMMENTS

Conviction by taking recourse to section 149 can not be made out unless five specified objects are not proved; Ramashish v. State of Bihar, 1999 (6) JT 560: 1999 (2) JCC (SC) 471.

142. Being member of unlawful assembly.- Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

143. Punishment .- Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 6 months ,or fine or both- Cognizable- Bailable-Triable by Magistrate- Non-compoundable.

144. Joining unlawful assembly armed with deadly weapon.- Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

145. Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.-

Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment-Imprisonment for 2 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

146. Rioting.- Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

147. Punishment for rioting.- Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 2 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

COMMENTS

- (i) The Sub- Inspector was pursuing investigation which is his duty and therefore it could not be said that while he was pursuing the investigation, it was in pursuance of an unlawful object and therefore no conviction could be passed under section 147; *Maiku v. State of Uttar Pradesh*, (1989) Cr LJ 860 : AIR 1989 SC 67.
- (ii) The Court can not place reliance on evidence of witnesses who speak generally and in omnibus way without specific reference to the identity of individual and their specific overacts in regards to incident that took place *Kamer Vasha v. State of Uttar Pradesh*, 1999 (7) JT 598: 1999 (9) Supreme 310.

148. Rioting, armed with deadly weapon.- Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished

with imprisonment of either description for a term which may extend to three years, or with fine, or with both .

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non-compoundable.

COMMENTS

- (i) There must be nexus between the common object and the offence committed and if it is found that the same was committed to accomplish the common object every member of the assembly will become liable for the same was committed to accomplish the common object every member of the LJ 1466 : AIR 1989 SC 1456.
- (ii) Where the presence of injured eye witnesses at the place of occurrence was undoubtful and their evidence corroborated by medical evidence supported by prompt FIR against all 16 accused , therefore merely non explanation of injuries sustained by accused persons by these witnesses not fatal for prosecution and as such common object of unlawful assembly to cause death established; State of Madhya Pradesh v. Bhagwan Singh, 2000 CrLJ 123 (MP).

149. Every member of unlawful assembly guilty of offence committed in prosecution of common object.- If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

CLASSIFICATION OF OFFENCE

Punishment-The same as for the offence –According as offence is Cognizable or non –cognizable –According as offence is bailable or non- bailable -Triable by court by which the offence is triable - Non-compoundable.

COMMENTS

- (i) It is well settled that once a membership of an unlawful assembly is established, it is no incumbent in the prosecution to establish whether any specific overt act has been

assigned to any accused . Mere membership of the unlawful assembly is sufficient; State of Maharashtra v. Joseph Mingel Koli, (1997) 2 Crimes 228 (Bom).

- (ii) Every member of an unlawful assembly is vicariously liable for the acts done by others either in the prosecution of the common object of the unlawful assembly or such which the members of the unlawful assembly knew were likely to be committed; State of Maharashtra v. Joseph Mingel Koli, (1997) 2 Crimes 228 (Bom).

150. Hiring, or conniving at hiring, or persons to join unlawful assembly.- Whoever hires or engages or employs, or promotes, or connives at the hiring, engagement or employment of any person to join or become a member of any unlawful assembly, shall be punishable as a member of such unlawful assembly , and for any offence which may be committed by any such person as a member of such unlawful assembly in pursuance of such hiring, engagement or employment , in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

CLASSIFICATION OF OFFENCE

Punishment-The same as for a member of such assembly, and for any offence committed by any members of such assembly- Cognizable—According as offence is bailable or non- bailable -Triable by court by which the offence is triable - Non- compoundable.

151. Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse.- Whoever knowingly joins or continues in any assembly of five or ,ore persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.- If the assembly is an unlawful is an unlawful assembly within the meaning of section 141, the offender will be punishable under section 145.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 6 months ,or fine or both- Cognizable- Bailable-Triable by any Magistrate- Non- compoundable.

152. Assaulting or obstructing public servant when suppressing riot,etc.- Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or

affray , or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for 3 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non-compoundable

153. Wantonly giving provocation with intent to cause riot – if rioting be committed- if not committed.- Whoever malignantly, or wantonly , by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed , shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine. Or with both ; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 1 years, or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non-compoundable

Para II. Punishment-Imprisonment for 6 month , or fine or both - Cognizable- Bailable-Triable by any Magistrate of the first class- Non-compoundable

1. Subs. by Act 35 of 1969, sec.2 , for former section.

¹[**153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintains of harmony.-** (1) Whoever

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on ground of religion , race, place of birth, residence, language, caste or fallings or enmity, hatred or ill- will between different religious, racial, language or regional groups or castes or communities, or

(b) Commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities ,or

²[(c) organizes any exercise, movement, drill or other similar activity intending that violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence , or participates in such activity intending to use or be trained to use or e trained to use criminal force or violence or knowing it to be likely that the participants in such activity will used or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, religious, racial, language or regional group or caste or community,]

shall be punished with imprisonment which may extend to three years, or with fine, or with both.

Offence committed in place of worship, etc.- (2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.]

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 3 years, or fine or both - Cognizable-Non- bailable-Triable by any Magistrate of the first class- Non-compoundable

Para II. Punishment-Imprisonment for 5 years, or fine or both - Cognizable-Non- bailable-Triable by any Magistrate of the first class- Non-compoundable

COMMENTS

(i) Mens rea is a necessary ingredient for the offence under section 153A of the Indian Penal Code; Bilal Ahmed Kaloo v. State of Andhra Pradesh, (1997) 7 Sureme Today 127.

- (ii) Publication of the words or representation is not offence under section 153A of the Indian Penal Code; *Bilal Aje,d Kalloo v. State of Andhra Pradesh*, (1997) 7 Sureme Today 127.

¹[**153B. Imputations, assertions prejudicial to national-integration.-** (1) Whoever, by words either spoken or written or by sings or by visible epresentations or otherwise,-

- (a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community , bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or
- (b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community , be denied or deprived of their rights as citizens of India, or
- (c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being member if any religious , racial,language or regional group or cast or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill- will between such members and other persons, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

1. Ins. by Act 31 of 1972, sec.2.

(2) Whoever commits an offence specified in sub-section (1) , in any place of worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall be liable to fine.]

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 3 years, or fine or both - Cognizable-Non-bailable-Triable by any Magistrate of the first class- Non-compoundable.

Para II. Punishment-Imprisonment for 5 years, or fine or both - Cognizable-Non-bailable-Triable by any Magistrate of the first class- Non-compoundable

154. Owner or occupier of land on which an unlawful assembly is held.- Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe to is likely to be committed, do not give the earliest notice thereof in his or their Power to the principal officer at the nearest police- station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and, in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

CLASSIFICATION OF OFFENCE

Punishment-Fine of 10,000 rupees Non- Cognizable-Bailable-Triable by any Magistrate - Non-compoundable.

155. Liability of person for whose benefit riot is committed .- Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land, respecting which such riot takes place or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot , or who has accepted or derived any benefit there from , such person shall be punishable with fine, if he or his agent or mangaer having reason to beliveve that such riot was likely to be committed or that he respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

CLASSIFICATION OF OFFENCE

Punishment-Fine- Non- Cognizable-Bailable-Triable by any Magistrate - Non-compoundable.

156. Liability of agent of owner or occupier for whose benefit riot is committed.- Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be committed, or that the all lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

CLASSIFICATION OF OFFENCE

Punishment-Fine- Non- Cognizable-Bailable-Triable by any Magistrate - Non-compoundable.

157. Harbours persons hired for an unlawful assembly.- Whoever harbours, receives or assembles, in any house or premises in his occupation or charge, or under his control any persons, knowing that such persons have been hired, engaged or employed, or are about to be hired, engaged or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Fine- Non- Cognizable-Bailable-Triable by any Magistrate - Non-compoundable.

158. Being hired to take part in an unlawful assembly or riot.- Whoever is engaged or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Or to go armed.- and whoever, being so engaged or hired as aforesaid, goes armed or engages or offers to go armed, with any deadly weapon or with anything which used as a weapon of offences is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CLASSIFICATION OF OFFENCE

Para I. Punishment-Imprisonment for 6 months , or both- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

Para II. Punishment-Imprisonment for 2year , or both- Cognizable-Bailable-Triable by any Magistrate - Non- compoundable.

159. Affray.- When two or more persons, by fighting in a public place, disturb the public peace, they are said to —Commit an affray.

160. Punishment for committing affray.- Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

CLASSIFICATION OF OFFENCE

Punishment-Imprisonment for one months , or fine of 100 rupees, or both- Cognizable- Bailable-Triable by any Magistrate - Non- compoundable.